

OMISSIONS AND CORRECTIONS

ALRB CASE DIGEST SUPPLEMENTS

1994-1997 OMISSIONS AND CORRECTIONS

- 302.00 PRE-PETITION MATTERS
- 302.01 Notice of Intent to Take Access; Precertification Access (See section 401)
- 302.01 After a rival union files a Notice of Intent to Take Access or a petition for election, the incumbent certified union may also take organizational access.
 PATTERSON FARMS, INC., 8 ALRB No. 57
- 401.00 COMPANY RULES AND ORDERS AFFECTING ORGANIZING; UNION ACCESS AND PRIVILEGES; SOLICITATION
- 401.01 In General
- 401.01 Pursuant to O.P. Murphy Produce Co., Inc. (Dec. 12, 1978) 4 ALRB No. 106, the certified bargaining representative is entitled to take post-certification access to property not owned or leased by the agricultural employer if its bargaining-unit employees are performing agricultural services on the property. The definition of "employer's premises" shall not be narrowly defined to mean only property owned or leased by the agricultural employer. In order to effectuate the policies of the Act, "employer's premises" shall also include property in which the employer has no legal ownership or leasehold interest, if its agricultural employees are performing agricultural services on the property.
 ROBERT H. HICKAM, 8 ALRB No. 102
- 401.08 Post-Certification Access
- 401.08 Pursuant to O.P. Murphy Produce Co., Inc. (Dec. 12, 1978) 4 ALRB No. 106, the certified bargaining representative is entitled to take post-certification access to property not owned or leased by the agricultural employer if its bargaining-unit employees are performing agricultural services on the property. The definition of "employer's premises" shall not be narrowly defined to mean only property owned or leased by the agricultural employer. In order to effectuate the policies of the Act, "employer's premises" shall also include property in which the employer has no legal ownership or leasehold interest, if its agricultural employees are performing agricultural services on the property.
 ROBERT H. HICKAM, 8 ALRB No. 102

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- 401.08 After a rival union files a Notice of Intent to Take Access or a petition for election, the incumbent-certified union may also take organizational access.
PATTERSON FARMS, INC., 8 ALRB No. 57
- 401.08 Union does not require access to represent replacement employees in order to fulfill its duty of fair representation.
BRUCE CHURCH, INC., 7 ALRB No. 20
- 401.08 Board rejected the employer's defense of bad-faith bargaining by the union, based in part upon access taken by the union. Such access is generally approved.
Even though the union did not follow all of the Board's suggested procedures, the access taken was limited to a short period of time during negotiations.
O. P. MURPHY PRODUCE CO., INC., dba O. P. MURPHY & SONS, 5 ALRB No. 63
- 401.08 A certified bargaining representative is entitled to take post-certification access at reasonable times and places for any purpose relevant to collective bargaining with the employer as the exclusive representative of the employees in the unit.
O. P. MURPHY PRODUCE CO., INC., dba O. P. MURPHY & SONS, 4 ALRB No. 106
- 401.08 Board finds lack of available alternative channels of communication between union and unit employees is basis for right of post-certification access.
O. P. MURPHY PRODUCE CO., INC., dba O. P. MURPHY & SONS, 4 ALRB No. 106
- 401.08 Board establishes guidelines to be followed in utilizing post-certification access.
O. P. MURPHY PRODUCE CO., INC., dba O. P. MURPHY & SONS, 4 ALRB No. 106
- 401.08 Board will evaluate the extent of the need for post-certification access on a case-by-case approach.
O. P. MURPHY PRODUCE CO., INC., dba O. P. MURPHY & SONS, 4 ALRB No. 106

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- 401.09 Access During Strike
- 401.09 Union representatives entitled to strike access to respondent's fields in accordance with the access granted in Bruce Church, Inc., 7 ALRB No. 20.
BERTUCCIO FARMS, 8 ALRB No. 70
- 401.09 Union representatives not entitled to strike access to respondent's packing sheds because general counsel presented no evidence that union lacked effective alternative means of communicating with non-striking shed employees.
BERTUCCIO FARMS, 8 ALRB No. 70
- 401.09 Strike access, according to an expert witness, tends to reduce strike violence. Where acts of violence or intimidation occur during a strike, the Board will respond with appropriate injunction requests and post-adjudication review of unfair labor practice allegations. Strike access is not inherently coercive, rather it is necessary to free- and informed-employee choice and must be allowed under controlled circumstances.
GROWERS EXCHANGE, INC., 8 ALRB No. 7
- 401.09 It is unlawful to deny union access to employer's property for the purpose of communicating their strike message to non-striking employees.
BRUCE CHURCH, INC., 7 ALRB No. 20
- 401.09 Strike access facilitates the non-striking employees' ability to make an informed choice about whether to join the strike, as well as the striking employees' interest in conveying their strike message. Both interests are protected by section 1152.
BRUCE CHURCH, INC., 7 ALRB No. 20
- 401.09 Strike access will be permitted when picketing is ineffective and no adequate alternative means of communication exists.
BRUCE CHURCH, INC., 7 ALRB No. 20
- 401.09 Strike access will be limited both as to the number of access takers as well as to the frequency with which it is taken. One organizer will be permitted for every 15 employees. Access may be taken at lunchtime only.
BRUCE CHURCH, INC., 7 ALRB No. 20

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439.00 DEFENSES TO CHARGE OF REFUSAL TO BARGAIN

439.01 In General

439.01 Board rejected the employer's defense of bad-faith bargaining by the union, based in part upon access taken by the union. Such access is generally approved. Even though the union did not follow all of the Board's suggested procedures, the access taken was limited to a short period of time during negotiations.

O. P. MURPHY PRODUCE CO., INC., dba O. P. MURPHY & SONS, 4 ALRB No. 106

463 .00 BARGAINING MAKEWHOLE REMEDY; APPLICABILITY

463.02 Surface Bargaining

463.02 Case number for Paul W. Bertuccio, at pages 400-445, should be 17 ALRB No. 16.

463.06 Del Porto Presumption

463.06 Case number for Paul W. Bertuccio, at pages 400-458, should be 17 ALRB No. 16.